

Remarks

Claims 19-22, 24-37 and 50-98 are in the application, of which claims 19, 36, 62, 65, and 66 are in independent form.

Claims 50-98 are added to provide desired coverage for the subject matter claimed. Dependent claim 23 is cancelled and its subject matter included in new dependent claims 58-60.

The specification is amended to correct a typographical error.

Response to Restriction Requirement

In response to the Office action dated March 22, 2005 requiring restriction, applicant provisionally elects the subject matter of Invention II (Claims 19-37) and Species II-A (method and apparatus that calculates future volatility of the financial market) for examination, with traverse, and requests reconsideration in view of the following remarks. Applicant asserts that claims 19-22, 24-37, and 50-98 are readable on Invention II, Species II-A.

Applicant does not challenge the restriction requirement as between Inventions I and III or between Inventions II and III identified in the Office action. However, with respect to Inventions I and II, Applicant submits that the examiner has failed to set forth a rational basis for differentiating between, on the one hand, a system and machine operable to calculate fixed odds for a fixed-odds bet on a financial market (Invention I), and, on the other hand, a method and product comprising calculating a fixed-odds price of a fixed-odds bet on a financial market (Invention II). The Office action recites that the process of Invention II can be practiced by a materially different apparatus and that the apparatus of Invention I can be used to practice a materially different process. However, the examiner has failed to explain how the limitations of the claims of Invention I concerning the calculation of fixed odds could admit to the use of the apparatus of Invention I for any process materially different from those specified by the claims of Invention II. Moreover, the examiner has already recognized that claim 36, directed to a computer program, is patentably indistinct from method claim 19. Because the difference between a method and a computer program for performing the method is analogous to the difference between a method and an apparatus for performing the method, the Office action is inconsistent and fails to articulate a rational basis for restriction.

Applicant requests reconsideration of the restriction requirement with respect to Inventions I and II.

Nevertheless, to expedite examination, applicant has cancelled claims 1-18 and 38-49, without prejudice, subject to re-filing in this application or in a divisional application, as appropriate. In the event that the restriction requirement is withdrawn with respect to Inventions I and II, applicant respectfully requests the opportunity to rejoin claims 1-19 and 38-46 in this application.

New claims 62 and 63 are written in means-plus-function format and are, therefore, linking claims as between method claims and claims directed to apparatus for practicing the method. MPEP § 809.03. New claim 65 is directed to an apparatus for practicing the method of claim 19. In the event that claims 62 and 63 are determined to be allowable, applicant requests the opportunity to rejoin all linked claims.

Applicant presents the claims for examination.

Respectfully submitted,

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